

**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

IN RE: **BARBARA JENNINGS,**

DEBTOR.

CASE NO. 19-53917-SMS

CHAPTER 7

NOTICE OF HEARING

PLEASE TAKE NOTICE that the above-named Debtor has filed a **MOTION TO RE-CONVERT CASE TO CHAPTER 13** and related papers with the Court seeking an order **converting this case from Chapter 7 to chapter 13.**

PLEASE TAKE FURTHER NOTICE that the Court will hold an initial telephonic hearing for announcements on the **Motion** at the following number: **toll-free number: 1-833-568-8864; access code 161 179 4270; at 10:15 A.M. on May 2, 2023 in Courtroom 1201, U.S. Courthouse, 75 Ted Turner Drive, SW, Atlanta, GA 30303.**

Matters that need to be heard further by the Court may be heard by telephone, by video conference, or in person, either on the date set forth above or on some other day, all as determined by the Court in connection with this initial telephonic hearing. Please review the "Hearing Information" tab on the judge's webpage, which can be found under the "Dial-in and Virtual Bankruptcy Hearing Information" link at the top of the webpage for this Court, www.ganb.uscourts.gov for more information.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk, U. S. Bankruptcy Court, Room 1340, 75 Ted Turner Drive, SW, Atlanta, GA 30303. You must also mail a copy of your response to the undersigned at the address stated below.

Dated: April 5, 2023

Respectfully submitted,

Hait & Kuhn
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Phone: 770-517-0045
Email: all@northmetrolitigators.com

/s/ Alexander Gray Hait
Alexander Gray Hait
Georgia Bar No. 316359
Attorney for Debtor

**IN THE UNITED STATES BANKRUPTCY COURT
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IN RE: **BARBARA JENNINGS,**

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MOTION TO RE-CONVERT CASE TO CHAPTER 13

COMES NOW the above-named DEBTOR, by and through the undersigned counsel, and files this Motion to Re-Convert Case to Chapter 13, showing the court as follows:

1. The Debtor commenced this case on March 11, 2019 by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. The Debtor's case was confirmed by this Court on May 14, 2019.
3. Debtor was previously represented by attorney David Galler of Galler Law, who passed away on July 15, 2021 after a battle with cancer. The timing of his passing was unexpected and his remaining staff did their best to wind up the affairs of Galler Law in the months afterwards.
4. On September 23, 2021, attorney Brandon K. Honsalek with Honsalek Law, LLC took over as Debtor's counsel.
5. On November 20, 2018, prior to filing this bankruptcy case, Debtor was involved in a car accident and on the same day retained the services of John T. Ruff, Esq. with Kenneth S. Nugent, P.C. to assist Debtor with pursuing a personal injury claim.
6. On or about April 2020, Mr. Ruff obtained a settlement agreement on the personal injury claim for the total amount of \$17,500.00. A true and correct copy of the settlement memorandum prepared by Mr. Ruff's office detailing the settlement proceeds and proposed disbursement (the "Settlement Memorandum") is attached hereto as "Exhibit A."
7. Upon information and belief, Mr. Ruff notified Galler Law of the settlement in May of 2020.
8. Upon information and belief, due to miscommunication and disputes between Galler Law and Mr. Ruff's office, an application to employ Mr. Ruff as special counsel was not filed until January 4, 2021.

9. On January 4, 2021, Galler Law on behalf of Debtor filed an Application to Employ John T. Ruff, Esq., c/o Kenneth S. Nugent, P.C. as special counsel (Doc. No. 38). An Order Approving Application to Employ Special Counsel was entered on January 6, 2021 (Doc. No. 39).
10. Upon information and belief, in July of 2021 Mr. Ruff's office obtained debtor's permission to send a check in the amount \$10,312.78 to Galler Law, said amount comprising the amount for medical bills and the net amount due to the client. It is unclear why the \$6,631.00 for the medical bills was not first deducted and remitted pursuant to the Settlement Memorandum.
11. Upon information and belief, Mr. Ruff retired in September or October of 2021. Upon information and belief, Galler Law received the check for \$10,312.78 sometime in September 2021 and sent it directly to Debtor.
12. Due to lack of communication and counsel from Galler Law, Debtor was unaware that she did not yet have court approval to spend the \$10,312.78.
13. Debtor therefore used the \$10,312.78 to pay off medical bills, Bereda Pest Control and some home repairs.
14. On or about February 3, 2022, Attorney Honsalek filed an amended Schedules A/B and C showing the pre-petition accident claim and claiming the full \$10,312.78 as exempt, Doc. No. 54.
15. On or about February 3, 2022, Attorney Honsalek filed a Motion to Approve Settlement Agreement, Compensation of Special Counsel and Disbursement of Funds, Doc. No. 55.
16. On or about February 10, 2023, the Chapter 13 Trustee filed a "Response to Motion to Approve Settlement Agreement, Compensation of Special Counsel and Disbursement of Funds", Doc. No. 56.
17. On or about February 28, 2023, Attorney Honsalek filed an Amended Motion to Approve Settlement Agreement, Compensation of Special Counsel and Disbursement of Funds, Doc. No. 57.
18. On or about March 25, 2022, the U.S. Trustee filed a "Response to Motion to Approve Settlement Agreement, Compensation of Special Counsel and Disbursement of Funds", Doc. No. 58.
19. On or about March 28, 2022, Attorney Honsalek filed a Withdrawal of Document for the Motion to Approve Settlement, Doc. No. 59.

20. Upon information and belief the Debtor had provided all information needed for the Motion to Approve Settlement as well as the Schedules were amended to exempt the full amount of the pre-petition claim of \$10,312,78.
21. On or about September 12, 2022, the Chapter 13 Trustee filed a Motion to Convert case to Chapter 7, Doc. No. 60. A hearing was scheduled for October 18, 2022 then reset to November 15, 2022.
22. On or about October 17, 2022, Attorney Honsalek filed a Modification of Confirmed Chapter 13 Plan, Doc. No 61. A Hearing was scheduled for November 15, 2022.
23. Both the hearings for the Modification for Chapter 13 Plan and the Trustee's Motion to Convert Case to Chapter 7 was held the same day on November 15, 2023. Counsel for Debtor confirmed with the Chapter 13 Trustee that he was not opposing the Modification and therefore it would be approved.
24. On or about November 15, 2022, an Order Approving Debtor's Modification of Chapter 13 was entered, Doc. No. 62.
25. On or about December 5, 2022, an Order GRANTING Trustee's Motion to Convert to Chapter 7 was entered, Doc. No. 64.
26. Upon information and belief Counsel for the Debtor did not appear at the hearing on November 15, 2022.
27. Upon information and belief Counsel did not appear because he was advised that the Modification would not be opposed and that would remove the request for conversion to Chapter 7.
28. Counsel's omission was in error and therefore a Order Granting Conversion was entered on December 5, 2022.
29. Debtor did not want the case to be converted to a Chapter 7 and her plan modification was approved in November 2022.
30. Debtor is eligible to be a Debtor under Chapter 13 of the Bankruptcy Code and request an Order converting this case back to a Chapter 13.

WHEREFORE, Debtor prays that this Motion be granted and an Order entered re-converting this case to Chapter 13 and for any other relief as the Court may deem just and proper.

Dated: April 5, 2023

Respectfully submitted,

Hait & Kuhn
185 Stockwood Drive
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Phone: 770-517-0045
Email: all@northmetrolitigators.com

/s/ Alexander Gray Hait
Alexander Gray Hait
Georgia Bar No. 316359
Attorney for Debtor

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CASE NO. 19-53917-SMS

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed the foregoing **MOTION TO RE-CONVERT CASE TO CHAPTER 13** and **NOTICE OF HEARING** using the Bankruptcy Court's Electronic Case Filing program, which sends a notice of this document and an accompanying link to this document to the parties who have appeared in this case under the Bankruptcy Court's Electronic Case Filing program.

I further certify that I am over the age of 18 and I have this day mailed a true and correct copy of the **MOTION TO RE-CONVERT CASE TO CHAPTER 13** and **NOTICE OF HEARING** by placing the same in a properly addressed envelope with sufficient postage to ensure delivery and depositing the same in the United States Mail, addressed to:

All Entities on the Attached Mailing Matrix

Dated: April 5, 2023

Respectfully submitted,

Hait & Kuhn
185 Stockwood Drive
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/s/ Alexander Gray Hait
Alexander Gray Hait
Georgia Bar No. 316359
Attorney for Debtor

Label Matrix for local noticing
113E-1
Case 19-53917-sms
Northern District of Georgia
Atlanta
Wed Apr 5 12:37:45 EDT 2023

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362 Richard B Russell Federal Building
75 Ted Turner Drive, SW
Atlanta, GA 30303-3315

Bank Of America
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El Paso, TX 79998-2238

Bank of America, N.A.
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700 KANSAS LANE FLOOR 01
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Department Stores National Bank
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PO Box 657
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Community Mgmt Assoc.
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U.S. Bank National Association
Ocwen Loan Servicing, LLC
Attn: Bankruptcy Department
PO Box 24605
West Palm Beach, FL 33416-4605

U.S. Department of Education
c/o FedLoan Servicing
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US Department of Education
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St. Paul, MN 55116-0448

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Po Box 790336
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Capital One Bank Usa N
15000 Capital One Dr
Richmond, VA 23238

Chase Card
Po Box 15298
Wilmington, DE 19850

Ford Motor Credit Company, LLC
Drawer 55-593
P.O. Box 55000
Detroit, MI 48255-0953

Georgia Department of Revenue
ATTN: Bankruptcy Department
1800 Century Blvd., N.E.
Suite 9100
Atlanta, GA 30345-0000

Internal Revenue Service
401 West Peachtree Street
M/S 334-D
Atlanta, GA 30308-3539

Macys/Dsnb
Po Box 8218
Mason, OH 45040

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Capital One Bank (USA), N.A.
by American InfoSource as agent
4515 N Santa Fe Ave
Oklahoma City, OK 73118-7901

(u)Ford Motor Credit Company, LLC, A Delaware

(u)N Metropolitan Radiology
PO Box 1746

(u)Ocwen Loan Servicing, LLC

(u)U.S Bank National Association

End of Label Matrix
Mailable recipients 48
Bypassed recipients 5
Total 53